

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PETER J. MCDANIELS,

Plaintiff,

v.

BELINDA STEWART, et al.,

Defendants.

CASE NO. C15-5943BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge (Dkt. 82), and Plaintiff Peter McDaniels’s objections to the R&R (Dkt. 84).

On June 24, 2016, Judge Christel issued the R&R recommending that the Court deny McDaniels’s motion for a preliminary injunction because McDaniels “failed to show he will suffer irreparable harm in the absence of preliminary relief.” Dkt. 82 at 1.

On July 8, 2016, McDaniels filed objections. Dkt. 84.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, McDaniels objects to the R&R on numerous grounds. Dkt. 84.
4 McDaniels, however, has failed to show immediate harm in the absence of temporary
5 relief. While McDaniels asserts that he has less than a month's worth of meals left, *id.* at
6 13, he fails to affirmatively show that he is unable to purchase proper meals or that he is
7 unable to obtain proper meals. In light of these failures, the Court agrees with Judge
8 Christel that McDaniels has failed to meet his burden as to this element of preliminary
9 relief.

10 Furthermore, McDaniels has failed to show that he is likely to succeed on the
11 merits. While he may succeed, he must show at this stage that he is likely to succeed.
12 *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). McDaniels has failed to
13 show a likelihood that he will successfully prove that: (1) Defendants have placed a
14 *substantial* burden on the exercise of his religion, *Patel v. U.S. Bureau of Prisons*, 515
15 F.3d 807, 813 (8th Cir. 2008); (2) Defendants burdened practice of his religion by
16 preventing him from engaging in conduct mandated by his faith, without any justification
17 reasonably related to legitimate penological interests, *Freeman v. Arpaio*, 125 F.3d 732,
18 735 (9th Cir. 1997); or (3) Defendants were deliberately indifferent to his health or safety
19 by subjecting him to a substantial risk of serious harm, *Farmer v. Brennan*, 511 U.S. 825,
20 834 (1994). These are high burdens to meet, and McDaniels has failed to show a
21 likelihood of meeting them at this point.
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1 Therefore, the Court having considered the R&R, McDaniels's objections, and the
2 remaining record, does hereby find and order as follows:

3 (1) The R&R is **ADOPTED**; and

4 (2) McDaniels's motion for a preliminary injunction is **DENIED**.

5 Dated this 31st day of August, 2016.

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8 BENJAMIN H. SETTLE
9 United States District Judge
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